

REMARKS

The Applicant confirms the earlier election of Claims 1-17, 49, 52-58, 66 and 71 for immediate prosecution. The Applicant has cancelled the non-elected claims without prejudice. However, the Applicant reserves the right to file one or more divisional applications directed to the subject matter of the cancelled claims.

The Applicant acknowledges the 35 U.S.C. §102 rejection of Claims 1-3, 49, 52, 53 and 71 as being anticipated by Heth. The Applicant has amended Claims 1, 49, 52 and 71 to further emphasize an important aspect of the invention wherein the controller operates the air circulating system independently of the temperature-modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup and growth of allergens within the system. Support may be found throughout the Applicant's Specification such as at page 9, paragraph [0031] and elsewhere.

The Applicant agrees that Heth discloses a temperature control system wherein a temperature modifying device is run to achieve a desired temperature. The Applicant also agrees that Heth runs the air circulating system independently of the temperature modifying device for the purpose of intermittently circulating room air past the temperature sensor such that the controller can more accurately control the room air temperature. This is particularly discussed in Heth in column 2 beginning at about line 36 and extending through line 64.

The problem that Heth encountered was that the temperature of the air immediately adjacent the sensing element 25 of Heth varied appreciably from the room air temperature by virtue of the presence of grille 13 and an associated air filter. This effectively caused the sensing element 25 to record a temperature that was not truly representative of the temperature of the room air. Heth

solved this problem by intermittently circulating room air past the sensing element 25 such that sensing element 25 would have an opportunity to sense the temperature of air that was more accurately reflective of the actual room air temperature.

This is a sharply different problem encountered by the Applicant. The Applicant is not at all concerned with the issues of Heth and the inaccuracy of the Heth sensing element 25. Instead, the Applicant discovered that allergens and other particulates present in the duct work may build up over the course of time, especially in situations where the temperature control system operates on an infrequent basis. The Applicant therefore designed a control apparatus wherein the controller is programmed to control not only the thermal output of the temperature modifying device to achieve the desired temperature, but to operate the air circulating system independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup in growth of allergens within the system. Heth utterly fails to disclose the problem, much less the solution. Careful scrutiny of the entire Heth disclosure reveals that there is no discussion concerning the existence of particulates and allergens, much less their buildup and the potential detrimental effect that they might have. Accordingly, it inherently follows that Heth fails to disclose a solution to this problem. The Applicant therefore respectfully submits that Heth is inapplicable to Claims 1-3, 49, 52, 53 and 71 under 35 U.S.C. §102. Withdrawal of the rejection is respectfully requested.

The Applicant acknowledges the rejection of Claims 6-11 and 54-56 under 35 U.S.C. §103 over the hypothetical combination of Toth with Heth. Heth is inapplicable for the reasons set forth above with respect to Claims 1-3, 49, 52, 53 and 71. The Applicant respectfully submits that Toth fails to provide teachings or suggestions, even if hypothetically combined with Heth, that would

result in the invention as set forth in Claims 6-11 and 54-56.

Heth fails to disclose, teach or suggest operation of the air circulating system independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup and growth of allergens within the system. Hypothetically combining the disclosure of Toth with Heth would still fail to provide teachings or suggestions that would result in an apparatus or method that would operate the air circulating system independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup in growth of allergens within the system. Although the Applicant agrees that Toth discloses an air conditioning system with filtration information entered and displayed, this disclosure, even when combined with Heth, fails to provide for operation of the air circulating system independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup and growth of allergens within the system.

In other words, the Heth device would have the capability to input and display filter information, but this would still fail to provide teachings or suggestions to an explicit portion of the claim language of Claims 6-11 and 54-56. Thus, the Applicant respectfully submits that even when combined, the resulting structure taught by the combined Toth/Heth disclosures still fails to teach or suggest an air circulating system that operates independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup in growth of allergens within the system. Withdrawal of the rejection is respectfully requested.

The Applicant acknowledges the 35 U.S.C. §103 rejection of Claims 12-17, 57, 58 and 66 over the hypothetical combination of Yoho with Toth and Heth. The Applicant has already

addressed the deficiencies of Toth and Heth above. The Applicant respectfully submits that further hypothetically combining Yoho with Toth and/or Heth fails to provide teachings or suggestions to those of ordinary skill in the art that would cure the deficiencies of the primary and secondary references.

Accordingly, even assuming arguendo the teachings of Yoho concerning the air pressure characteristic, the pressure sensor being located near the filter and determining the filter status indication based on the sensed air pressure, that disclosure, even when combined with the disclosures of Toth and Heth, would still fail to provide apparatus and/or a method wherein the controller controls the thermal output of the temperature modifying device to achieve a desired temperature and operates the air circulating system independently of the temperature modifying device such that air circulates through the system at selected intervals sufficient to prevent buildup in growth of allergens within the system. As noted above, both Heth and Toth utterly fail to teach or disclose the problem, much less the solution of preventing buildup in growth of allergens within the system. Careful scrutiny of Yoho reveals that he too fails to appreciate the problem, much less the solution. Therefore, even when the combination of the tertiary reference is made within the secondary and primary references, the resulting structure provides no guidance to one of ordinary skill in the art to make modifications that would result in the subject matter of Claims 12-17, 57, 58 and 66. The Applicant therefore respectfully requests that the withdrawal based on the hypothetical combination of Yoho with Toth and Heth be withdrawn.

In light of the foregoing, the Applicant respectfully submits that the entire application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



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